

REMARKS

Restriction/Election Requirement

The Office Action includes a restriction requirement wherein the Examiner has alleged that the application contains claims directed to two inventions, namely:

Group I (claims 1-17 and 19-24) directed to a method of manufacturing an optical system; and

Group II (claims 18 and 25) directed to a an optical system.

The Office Action further includes an election of species requirement wherein the Examiner has alleged that the Group I claims contain claims directed to seven species (Office Action at pp. 3-4), as set forth below.

Species A – “drawn to measuring a shape of the optical surface of the substrate while the substrate is mounted on the measuring frame such that the contact portions of the measuring frame are attached to the substrate at respective contact regions of the substrate; processing the optical surface of the substrate for claims 1-8.”

Species B – “drawn to the substrate that is mounted on the mounting frame during the measuring of the shape of the optical surface and the processing of the optical surface for claims 9-16.”

Species C – “drawn to measuring an optical property of the at least two substrates while the at least two substrates are mounted on the mounting frame using a measuring beam which passes through two optical surfaces of at least one substrate for claim 17.”

Species D – “drawn to a number of the contact portions of the measuring frame that is equal to a number of the contact portions of the mounting frame, and wherein respective distances between the contact portions of the measuring frame are substantially equal to the corresponding distances between the contact portions of the mounting frame for claim 19.”

Species E – “drawn to a substrate that is mounted on the mounting frames during the measuring of the shape of the optical surface and the processing of the optical surface for claims 20 and 23.”

Species F – “drawn to assembling the at least one optical component by mounting the at least two substrates on the mounting frame and processing of the optical surface is carried out while the at least two substrates remain permanently mounted on the mounting frame for claims 21-24” (believed to be referring to claims 21 and 24).

Species G – “drawn to a number of the contact portions of the measuring frame that is equal to a number of the contact portions of the mounting frame and respective distances between the contact portions of the measuring frame are substantially equal to the corresponding distances between the contact portions of the mounting frame for claim 22.”

Election with Traverse

Applicants hereby elect the Group I claims (claims 1-17 and 19-24) and Species B with traverse. It is believed that claims 9-16 (identified by the Office) are readable on the elected species, and additionally that claims 17, 20, 21, 23 and 24 are readable on the elected species.

The election is made with traverse because the Office has not identified mutually exclusive species as set forth in MPEP § 806.04(e) and also because the Office has associated various claims with allegedly different species while using substantially the same language to describe those species.

The Office Action identifies the various alleged species by selecting particular language from independent claims and by identifying claim numbers associated with that language. It is respectfully submitted that the identification of species in this manner is improper and does not satisfy the procedure set forth in the MPEP. MPEP § 806.04(e) states:

"Claims are definitions or descriptions of inventions. *Claims themselves are never species Species always refer to the different embodiments of the invention.*" (emphasis in original).

The next section, MPEP § 806.04(f), further states:

Where two or more species are claimed, a requirement for restriction to a single species may be proper if the species are *mutually exclusive*. Claims to different species are mutually exclusive if one claim recites limitations disclosed for a first species but not a second, while a second claim recites limitations disclosed only for the second species and not the first. This may also be expressed by saying that to require restriction between claims limited to species, the claims must not overlap in scope. (Emphasis added.)

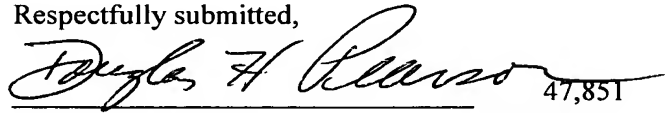
As noted above, the Office Action identifies the various alleged species by selecting particular language from independent claims and by identifying claim numbers associated with that language. However, the Office Action does not identify mutually exclusive characteristics that are found in different disclosed embodiments. For example, whereas claims 9-16, 17, 20, 21, 23 and 24 all recite subject matter identified by the Office involving a substrate that is mounted on a mounting frame during the measuring of the shape of the optical surface and the processing the optical surface, the Office Action purports to assign these claims to four different species (B, C, E and F). It is evident that the characteristics identified by the Office as a basis for species restriction are not mutually exclusive in this regard.

Conclusion

For the foregoing reasons, favorable examination of claims 9-16, 17, 20, 21, 23 and 24 is respectfully requested. Should there be any questions in connection with this application, the examiner is invited to contact the undersigned at the number below.

Date: November 13, 2006

Respectfully submitted,

 47,851

Douglas H. Pearson

(Reg. No.)

JONES DAY

51 Louisiana Avenue, N.W.

Washington, D.C. 20001-2113

(202) 879-3939